

Remarks

The above Amendments and these Remarks are in reply to the Office Action mailed September 12, 2007.

I. Summary of Examiner's Objections and Rejections

Prior to the Office Action mailed on September 12, 2007, Claims 1-19 were pending in the Application. In the Office Action, Claims 13 and 15-19 were objected to. Claims 1, 5, 7, 9-10, 14 & 18-19 were rejected under 35 U.S.C. § 102(e) as being anticipated by Peng, US Patent 6,774,939 B1 (hereinafter "Peng"). Claims 2-4, 8, 12-13 & 15-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable under Peng in view of Lassiter, US Patent 6,624,846 B1 (hereinafter "Lassiter").

II. Summary of Applicant's Amendments

The present Reply cancels Claims 2-4, 10-11 and 15-16; amends Claims 1, 5, 7, 8-9, 13, 17-19; and adds Claims 20-22; all as shown above. Applicant respectfully reserves the right to prosecute any originally presented or canceled claims in a continuing or future application.

III. Claim Rejections under 35 U.S.C. §102(e)

Claims 1, 5, 7, 9-10, 14 & 18-19 were rejected under 35 U.S.C. § 102(e) as being anticipated by Peng. Claim 10 has been cancelled.

Claim 1

Claim 1 has been amended by the current Reply to more clearly define the embodiment therein. As amended, Claim 1 defines:

1. A method for managing audio devices located at a live event during the live event, comprising:
 - capturing video content of the live event at a first location, the video content having pixels associated with a plurality of the audio devices located at the first location;
 - providing the video content of the live event captured at the first location to a user at a second location;
 - receiving a selection of a first group of pixels, the selection made by a user, the first group of pixels within the video content;

selecting the audio device at the first location associated with the first group of pixels; and
providing audio from the selected audio device to the user.

Claim 1, as currently amended, defines a method for managing audio devices located at a live event during the live event. This method includes the steps of: capturing video content of the live event at a first location, the video content having pixels associated with a plurality of the audio devices located at the first location; providing the video content of the live event captured at the first location to a user at a second location; receiving a selection of a first group of pixels from the user; selecting the audio device at the first location associated with the first group of pixels; and providing audio from the selected audio device to the user.

In Peng, it was explained that modern digital cameras allow a user to capture an image to produce an image file and to record audio content that can be attached to the image file. Peng 1:18-22. However, one problem with the prior art digital cameras was that only one audio file could be attached to a single image file. Peng 1:33-1:55. Another problem was that when recording audio related to a series of photographs, if a photograph was changed or omitted, it resulted in undesirable changes to the audio content that was recorded. Peng 1:66-2:20. Accordingly, in an effort to circumvent these problems associated with the prior art, Peng discloses a method and device for recording an image and associating one or more audio files with specific portions of the image so that during image playback an audio file associated with the specific portion of the image can be played back by selecting the specific portion on the image. Peng 1:7-1:13. In other words, Peng combines “previously captured images” with “previously recorded audio files.” Peng 5:27-5:32.

Applicant’s invention embodied in Claim 1 is not anticipated by Peng, among other things, for the following reasons. As set forth in Claim 1, Applicant’s invention manages a plurality of audio devices located at a live event during the live event. The invention in Peng does not manage a plurality of audio devices at a live event during the live event. Instead, it uses an audio device to record audio files, and then manages the saved audio files (as opposed to the devices) in order to associate the audio files with images which have also been previously captured. Claim 1 captures video content of the live event at a first location and provides that video content to a user at a second location during the live event. Again, Peng simply captures

an image whereby it is edited at some later point in time. Claim 1 uses the video content to allow the user to select an audio device at the live event that the user wishes to focus on. Peng does not disclose a method of managing audio devices in this manner. Given all of these material differences between the invention found in Claim 1 when compared to the invention in Peng, it can be concluded that Peng does not anticipate Claim 1.

Additionally, although the issue was not raised by the Examiner with respect to Claim 1, it is respectfully submitted that taking the combined teachings of Peng and Lassiter as a whole, one skilled in the art would not have found the invention embodied by Claim 1 obvious by modifying the methods of Peng with the methods found in Lassiter. Briefly, Lassiter relates to a visual user interface for use in controlling the interaction of a device with a spatial region, such as the acquisition or display by a video device of a sequence of filmed scenes that are each part of a panoramic scene. Lassiter, 1:8-1:12. Lassiter appears to use a visual user interface to control the interaction of a device with a spatial region. Lassiter, 4:51-4:53. In particular, the invention is useful in applications which require the control of a video device. Lassiter, 4:2-4:3.

To begin with, as set forth in KSR Int. Co. v. Teleflex, 127, S. Ct. 1727 (2007),

[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. Although common sense directs one to look with care at a patent application that claims innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does. This is so because inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known.

Therefore, an Examiner may often find every element of a claimed invention in the prior art; however, if identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. See In re Rouffet, 149 F.3d 1350 (Fed. Cir. 1998). Rejecting patents solely by finding prior art corollaries for the claimed elements would permit an Examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be “an illogical and inappropriate process by which to determine patentability.” See

Sensonics, Inc. v. Aerosonic Corp., 81 F.3d 1566, 1570 (Fed. Cir. 1996). The KRS decision did nothing to abrogate these cases or the long-standing principle. In fact, the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of KSR attempts to affirm this principle by quoting KSR as follows: “[I]t can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.”

In this case, there would have been no reason for a person of ordinary skill in the relevant field to have combined Peng and Lassiter in the manner suggested by the examiner (in rejecting Claims 2-4, which are now cancelled). The invention in Peng is directed toward editing an image file by associating different audio files to different parts of the image. Both the image and audio files are recorded prior to editing in Peng. Consequently, Peng is largely unconcerned with managing the recording devices while the image and audio files are being recorded. In fact, a user can capture the video or audio files in any manner using the device disclosed in Peng, the device typically being a camera and/or camcorder. Given the ease with which the video and/or audio files can be obtained in Peng, Peng can be viewed as teaching away from using a more involved process, such as the one in Lassiter, to obtain the video and/or audio files.

Assuming, *arguendo*, that a person of ordinary skill in the relevant field would have thought to combine the disclosures in Lassiter with the disclosures in Peng, the result would have been to allow the user in Peng to record the video and audio files from a remote location using a visual user interface. After capturing the video and audio files, the process disclosed in Peng would have been followed. This combined method, however, still fails to disclose Applicant's invention embodied in Claim 1. More specifically, this combination does not suggest a method of effectively managing audio devices at a live event during the live event because neither Peng nor Lassiter disclose *any* methods for managing a plurality of audio devices during a live event by associating pixels contained on a video content to the plurality of audio devices located at the live event. Applicant's invention embodied in Claim 1 is not simply a predictable use of the elements found in Peng and Lassiter according to their previously established functions. Accordingly, Claim 1 should not be considered as being obvious under Peng in light of Lassiter.

In view of the comments provided above, Applicant respectfully submits that the embodiment defined by Claim 1 is neither anticipated by, nor obvious in view of the cited reference, and reconsideration thereof is respectfully requested.

Claim 5

The comments provided for Claim 1 above are incorporated by reference herein. Moreover, Claim 5 indicates that the method set forth in Claim 1 further includes the steps of “selecting a plurality of audio devices at the first location associated with the first group of pixels; comparing parameters for each audio device; and selecting one of the plurality of audio devices.” Examiner rejected Claim 5 as being anticipated by Peng, 9:31-9:44. It is respectfully submitted that Claim 5 is not anticipated by Peng, 9:31-9:44.

Peng identifies a method of storing audio *files* associated with an image file in Peng, 9:31-9:44. Claim 5, however, focuses on selecting audio *devices*, comparing parameters for audio *devices*, and selecting an audio *device* based on the parameters. There is a material difference between audio devices and audio files and Peng does not appear to disclose a method related to audio device selection. Accordingly, Applicant respectfully submits that Claim 5 is not anticipated by, nor obvious in view of the cited references, and reconsideration thereof is respectfully requested.

Claim 7

The comments provided for Claims 1 and 5 above are incorporated by reference herein. Moreover, similar to Claim 5, Claim 7 focuses on selecting audio devices as opposed to organizing audio files. Accordingly, Applicant respectfully submits that Claim 7 is not anticipated by, nor obvious in view of the cited references, and reconsideration thereof is respectfully requested.

Claim 9

The comments provided for Claim 1 are incorporated by reference herein. Claim 9 includes a method of: “automatically selecting a second group of pixels, the second group of pixels associated with a second weight and selected as a result of detecting motion in the video

content, the first group of pixels associated with a first weight, wherein providing audio includes: providing audio from the audio device associated with the group of pixels associated with the highest weight.”

Examiner cited Fig. 11:812; 14:34-14:44 in rejecting this claim. That portion of Peng, however, does not appear to anticipate Claim 9. In the embodiment illustrated in Fig. 11 in Peng, several image files appear to be associated with an audio file. When the “play” button is pushed, the audio begins and the images are displayed in order until the audio stops. This embodiment appears to be referring to what is commonly known as a slide show, where multiple images are displayed as music is being played. It is uncertain how Claim 9 is anticipated by Peng and clarification is respectfully requested. Peng does not appear to automatically select a second group of pixels based on motion detection and it does not compare the weighted values of two groups of pixels to provide audio from the audio device with the highest weight. Accordingly, Applicant respectfully submits that Claim 9 is not anticipated by, nor obvious in view of the cited references, and reconsideration thereof is respectfully requested.

Claims 14, 18 and 19

Claims 14, 18 and 19 are not addressed separately but it is respectfully submitted that these claims are allowable as depending from allowable independent claims and further in view of the amendments to the independent claims, and the comments provided above. More specifically, the same arguments presented for Claim 1 are incorporated herein for Claim 14, the same arguments presented for Claim 7 are incorporated herein for Claim 18, and the same arguments presented for Claim 9 are incorporated herein for Claim 19.

Applicant respectfully submits that these Claims are similarly neither anticipated by, nor obvious in view of the cited references, and reconsideration thereof is respectfully requested. It is also submitted that these claims also add their own limitations which render them patentable in their own right. Applicant respectfully reserves the right to argue these limitations should it become necessary in the future.

IV. Claim Rejection under 35 U.S.C. §103(a)

Claims 2-4, 8, 12-13 & 15-16 were rejected under 35 U.S.C. § 103(a) as being

unpatentable under Peng in view of Lassiter, US Patent 6,624,846 B1 (hereinafter "Lassiter").
Claim 2-4 and 15-16 have been cancelled.

Claim 12

Similar to Claim 1, the elements in Claim 12 are not anticipated by Peng as set forth in the office action. As set forth in Claim 12, Applicant's invention manages a plurality of audio devices located at a live event during the live event. The invention in Peng does not manage a plurality of audio devices at a live event during the live event. Instead, it uses an audio device to record audio files, and then manages the saved audio files (as opposed to the devices) in order to associate the audio files with images which have also been previously captured. Claim 12 uses the manages audio devices using a combination of an overview window and a selection display window. Peng simply captures an image whereby it is edited at some later point in time. Accordingly, the elements of claim 12 are not anticipated by Peng as set forth in the office action.

With respect to the obviousness rejection, rejections based on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. See KRS International Co. v. Teleflex, Inc., 127 S. Ct. 1727, 1741 (2007) (quoting In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)). A patent composed of several elements is not proved obvious merely by demonstrating that each of its elements were, independently, known in the prior art. Id. Accordingly, an Examiner must identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does. This is so because invention in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known. Id.

In this case, there would have been no reason for a person of ordinary skill in the relevant field to have combined Peng and Lassiter in the manner suggested by the examiner. The invention in Peng is directed toward editing an image file by associating different audio files to different parts of the image. Both the image and audio files are recorded prior to editing in Peng. Consequently, Peng is largely unconcerned with managing the recording devices while

the image and audio files are being recorded. In fact, a user can capture the video or audio files in any manner using the device disclosed in Peng, the device typically being a camera and/or camcorder. Given the ease with which the video and/or audio files can be obtained in Peng, Peng can be viewed as teaching away from using a much more expensive and burdensome process to obtain the video and/or audio files.

Assuming, *arguendo*, that a person of ordinary skill in the relevant field would have thought to combine the disclosures in Lassiter with the disclosures in Peng, the result would have been to allow the user in Peng to record the video and audio files from a remote location using a visual user interface. After capturing the video and audio files, the process disclosed in Peng would have been followed. This combined method, however, still fails to disclose Applicant's invention embodied in Claim 12. More specifically, this combination does not suggest a method of effectively managing audio devices at a live event during the live event because neither Peng nor Lassiter disclose *any* methods for managing a plurality of audio devices during a live event by associating pixels contained on a video content to the plurality of audio devices located at the live event. Applicant's invention embodied in Claim 12 is not simply a predictable use of the elements found in Peng and Lassiter according to their previously established functions. Accordingly, Claim 12 should not be considered as being obvious under Peng in light of Lassiter.

In view of the comments provided above, Applicant respectfully submits that the embodiment defined by Claim 12 is neither anticipated by, nor obvious in view of the cited reference, and reconsideration thereof is respectfully requested.

Claim 8, 13

It is respectfully submitted that Claims 8 and 13 are allowable as depending from an allowable independent claim and further in view of the amendments and comments to Claim 1 and 12 provided above, which are hereby incorporated by reference. Applicant respectfully submits that these Claims are neither anticipated by, nor obvious in view of the cited references, and reconsideration thereof is respectfully requested. It is also submitted that these claims also add their own limitations which render them patentable in their own right. Applicant respectfully reserves the right to argue these limitations should it become necessary in the future.

V. Conclusion

In view of the above amendments and remarks, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and reconsideration thereof is respectfully requested. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this reply, including any fee for extension of time, which may be required.

Respectfully submitted,

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